

403(b) CUSTODIAL ACCOUNT AGREEMENT WITH STATE STREET BANK AND TRUST COMPANY AS CUSTODIAN

Article 1: INTRODUCTION

1.1 Establishment of Account. This Agreement is intended to establish a 403(b) Custodial Account meeting the requirements of Code Section 403(b)(7) and any other applicable requirements of the Internal Revenue Code of 1986. This Agreement and the Adoption Agreement will be interpreted and administered so as to carry out such intent.

The Adoption Agreement signed by the Employee and accepted by State Street Bank and Trust Company as Custodian and this Agreement (which is incorporated by reference into the Adoption Agreement), as either may be amended from time to time, are the legal documents governing the Account.

1.2 Effective Date. This Agreement will become effective on the date on which the Custodian accepts the Adoption Agreement signed by the Employee. Such

acceptance is indicated by the Custodian (or its agent) opening the Account for the Employee's benefit, which will occur on the date when the Custodian receives and accepts a contribution to the Account. If all required forms and information are properly submitted, State Street Bank and Trust Company will accept appointment as Custodian of the Employee's Account. However, this Agreement (and the Adoption Agreement) is not binding upon the Custodian until the Employee has received a statement confirming the initial transaction for the Account. Receipt by the Employee of a confirmation of the purchase of Fund shares for the Account as directed in the Employee's Adoption Agreement will serve as notification of State Street Bank and Trust Company's acceptance of appointment as Custodian of the Employee's Account.

ARTICLE 2: DEFINITIONS

2.1 Account or Employee's Account means the account established and maintained by the Custodian under this Agreement for the benefit of the Employee.

2.2 Adoption Agreement means the 403(b) Custodial Account Adoption Agreement, which incorporates this Agreement, signed by the Employee, as it may be amended from time to time.

2.3 Agreement means this 403(b) Custodial Account Agreement with State Street Bank and Trust Company as Custodian, as it may be amended from time to time.

2.4 Beneficiary means an individual or entity designated by the Employee to receive payment of all or part of the amount in the Account upon the death of the Employee. (See also Article 9.)

2.5 Code means the Internal Revenue Code of 1986, as it may be amended from time to time or any successor statute enacted in lieu thereof. Reference to any provision of the Code includes reference to any replacing provision or to any similar provision in a successor statute.

2.6 Custodian means State Street Bank and Trust Company, or any party serving as successor custodian in accordance with this Agreement.

2.7 Employee means the individual who signed the Adoption Agreement to establish the Account.

At the time any Employer contributions to the Employee's Account are made, the Employee must be a common law employee of an employer described in subsection 2.08(a), or a common law employee of an employer described in subsection 2.08(b) who performs services for an educational organization (as defined in Code Section 170(b)(1)(A)(ii)), or a minister described in Code Section 414(e)(5)(A).

2.8 Employer means the Employer of the Employee. The Employer must be

- (a) an organization described in Code Section 501(c)(3) exempt from taxation under Code Section 501(a), or
- (b) a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state, or
- (c) the minister (if self-employed) or the entity employing a minister and with whom the minister shares common religious bonds.

2.9 Fund or Funds means one or more mutual funds the shares of which are available from time to time as investments for the Account, provided however that shares of the Fund may legally be offered for sale in the state where the Employee resides. The Fund(s) available will be designated in the Adoption Agreement or in another listing provided to the Employee.

ARTICLE 3: CONTRIBUTIONS TO ACCOUNT

3.1 Establishment of Account. The Custodian will open and maintain the Account in the name of the Employee. The Employee's interest in the Account will be nonforfeitable at all times.

3.2 Contributions to Account. Salary Reduction Contributions. In connection with the Account, the Employee and the Employer may enter into a salary reduction agreement, and the Employer will contribute to the Employee's Account all amounts by which the Employee's salary is reduced under such salary reduction agreement. Any salary reduction agreement between the Employer and the Employee will be effective only as to amounts earned by the Employee after such agreement becomes effective. A salary reduction agreement may not be retroactively revoked or modified with respect to amounts already earned by the Employee.

Either the Employee or the Employer may terminate a salary reduction agreement at the end of any payroll period. Following termination of a salary reduction agreement, the Employee may reinstate his or her salary reduction agreement or may enter into a new salary reduction agreement with the Employer. The Employee may modify the salary reduction agreement at any time. However, the Employer may impose reasonable restrictions on the frequency with which the Employee may terminate, reinstate or modify a salary reduction agreement. Any termination, reinstatement or modification will relate only to compensation not yet earned, and not to compensation already earned, by the Employee as of the effective date of such termination, reinstatement or modification.

No Employer contributions other than contributions pursuant to a salary reduction agreement are permitted.

3.3 Transfers or Rollovers. The Employee may by appropriate instructions direct a transfer or direct rollover to the Account from an existing custodial account described in Code Section 403(b)(7) or any annuity contract described in Code Section 403(b)(1). Transfers must be in cash.

The Custodian will accept cash rollover contributions from the Employee provided such amounts constitute rollover amounts under Code Section 403(b)(8) or rollover contributions under Code Section 408(d)(3)(A)(iii) (or other applicable Code section).

To the extent required by regulations or Internal Revenue Service rulings, transfers or rollovers will be accepted only if the Employee verifies that the 403(b) account or annuity from which the transfer or rollover is being made does not contain withdrawal or distribution restrictions that are more restrictive than those contained in this Agreement. To the extent permitted by the Code and regulations and rulings, the Employee may also direct a transfer to, or make a rollover from, an individual retirement account or annuity, employer qualified plan under Code Section 401(a), or governmental deferred compensation plan under Code Section 457, to the Account.

The Employee will be responsible for insuring that any such transfer or rollover satisfies the requirements specified in this

section and all other applicable provisions of the Code in order for the transfer or rollover to be a tax-free transaction. The Employee will also be responsible for providing to the Custodian any information concerning any transfer or rollover amount necessary to permit the Custodian to properly administer and/or report distributions from such transfer or rollover amount.

3.5 Subaccounts. If the Account contains contributions under more than one of Sections 3.2 and 3.3, the Custodian may agree to maintain separate subaccounts showing the amounts held in the Account derived from contributions under Section 3.2 and/or 3.3, or the Custodian may require the maintenance of such separate subaccounts.

3.6 Limitations on Contributions.

- (a) **General Limitations on Contributions.** Contributions to the Account under Section 3.2 in any taxable year of the Employee may not include any amount which is an excess contribution under Code Section 4973(c) (an "Excess Contribution") or that would exceed the limit on annual additions to the Account for a limitation year under Code Section 415 as applicable to the Employee.
- (b) **Additional Limitations on Salary Reduction Contributions.** Salary reduction contributions to the Account under Section 3.2 for a calendar year may not exceed the limit applicable to the Employee for such year under Code Section 402(g) (taking into account increases to such limit due to changes in the cost of living (to the extent applicable for a particular calendar year) and taking into account such higher limit as the Employee qualifies for under the provisions of Code Section 402(g)(7)). If the Employee is age 50 or older by the end of any calendar year, the maximum salary reduction contributions to the Account by the Employee for such calendar year will be increased by the amount provided in Code Section 414(v) applicable to such year. The limitations provided for in the preceding two sentences will be determined taking into account any other amounts contributed during such calendar year by the Employee through a salary reduction election under any other arrangement that is subject to the limitations of Code Section 402(g) and/or Code Section 414(v).
- (c) Neither the Custodian nor any affiliate of the Custodian shall be under any obligation to insure that any contributions to the Account are in compliance with (i) the general limitations on contributions under subsection (a) above, or (ii) the additional limitations on salary reduction contributions under subsection (b) above, or to monitor compliance with such limitations or requirements, unless such obligation is expressly undertaken by separate written agreement between the Custodian and the Employee.

ARTICLE 4: INVESTMENT OF CONTRIBUTIONS

4.1 Purchase of Shares. As soon as is practicable after the Custodian receives a contribution under Section 3.2, it will invest such contribution in shares or fractional shares of one or more Funds in accordance with the Employee's investment instructions. The Account may be invested in the shares of one or more Funds provided that any minimum investment requirements specified by the Funds' prospectuses are met.

The Employee will specify his or her investment instructions for the initial investment of contributions to the Account at the same time he or she completes the Adoption Agreement for the Account, and such instructions will remain in effect until the Custodian receives new written instructions acceptable to the Custodian. However, if investment instructions for any contribution are not received from the Employee as required, or if any instructions received by the Custodian are incomplete or ambiguous in the judgment of the Custodian, the Custodian may continue to invest contributions to the Account in accordance with the Employee's most recent investment instructions (if any) until such incompleteness or ambiguity has been resolved to the Custodian's satisfaction; alternatively, the Custodian may return any contributions received for the Employee's Account to the Employee, or may hold any such contributions uninvested (or may invest them in a money market fund if available), until such instructions are provided by the Employee or until such incompleteness or ambiguity has been resolved. In either event, the Custodian will have no liability for interest or for loss or changes in investment values of Fund shares which occur pending the Employee's providing proper investment instructions or the resolution of such incompleteness or ambiguity (as the case may be).

Any shares of a Fund held hereunder for the Employee's Account may be registered in the name of the Custodian or its nominee. All such shares and fractional shares shall be issued and accounted for as book entry shares, and no physical shares or share certificates will be issued.

4.2 Reports and Voting of Securities. The Custodian will deliver (or direct the delivery) to the Employee or, if applicable, his or her Beneficiary, all notices or reports to shareholders, prospectuses, financial statements, proxies and proxy solicitation materials received by it with respect to shares of a Fund held in the Employee's Account. The Custodian will vote shares in accordance with the timely instructions of the Employee (or, if applicable, Beneficiary) as expressed in an executed proxy, if received timely by the Custodian. If no timely written instructions are received from the Employee (or Beneficiary), the Custodian will not vote the shares in the Account.

4.3 Dividends. The Custodian will invest all dividends and capital gains or other distributions received on the shares of a Fund held in the Account in additional shares and fractional shares of that Fund.

4.4 Change of Investments. Subject to any minimum investment requirement applicable to a Fund, the Employee

(or his or her Beneficiary, if the Employee is deceased) may at any time direct the Custodian to redeem all or a specified portion of the shares of a Fund in the Employee's Account and to invest the net redemption proceeds in shares and fractional shares of one or more other Funds.

The Employee (or Beneficiary) will give such directions by written notice acceptable to the Custodian, and the Custodian will process such directions as soon as practicable after receipt thereof. If any such directions are incomplete or ambiguous in the judgment of the Custodian or otherwise not in good order, the Custodian will refrain from carrying out any transactions until such incompleteness or ambiguity or other defect has been resolved to its satisfaction, without liability for any loss or change in investment values of Fund shares which occur pending the resolution of such incompleteness or ambiguity.

Any sales or redemption fee or other charge payable in connection with any redemption will be paid from the Employee's Account.

In the event that any Fund held in the Employee's Account is liquidated or is otherwise made unavailable by the sponsor or distributor of such Fund as a permissible investment for the Account hereunder, the liquidation or other proceeds of such Fund shall be invested in accordance with the instructions of the Employee; if the Employee does not give such instructions, or if such instructions are unclear or incomplete in the opinion of the Custodian, the Custodian may invest such liquidation or other proceeds in such other Fund (including a money market fund if available) as the sponsor or distributor of the Fund designates, and the Custodian will have no responsibility for such investment.

4.5 Others Who May Give Instructions. Any instructions concerning the purchase of shares, voting, or changes of investments under Section 4.1, 4.2 or 4.4 above may be given by the Employee's Beneficiary following the Employee's death (or if there is no surviving Beneficiary, by the executor or administrator of the Employee's estate).

In addition, the Employee (or, following the Employee's death, the Beneficiary or, if none, the executor or administrator of the Employee's estate) may by acceptable written instructions to the Custodian, authorize an agent or investment advisor to act on his or her behalf in giving instructions to the Custodian concerning the purchase of shares, voting, or change of investments under Section 4.1, 4.2 or 4.4 above, and the Custodian will be fully protected in following the instructions of such authorized agent or investment advisor. The Employee's (or Beneficiary's) appointment of any such agent or investment advisor will also be deemed to be instructions to the Custodian to pay such agent's or investment advisor's fees from the Account hereunder without additional authorization by the Employee (or Beneficiary).

ARTICLE 5: WITHDRAWALS

5.1 Instructions to Custodian. The Custodian will process written directions from the Employee to make withdrawals. However, the Employee must insure that withdrawals directed by the Employee comply with the requirements of this article. No withdrawals will be processed upon the death of the Employee unless the Custodian has been notified in writing of the Employee's death, and the Custodian has been provided with verification of such death which is adequate in its judgment.

5.2 Withdrawals by Employee. The Employee may make withdrawals from the Account at the time(s) directed by the Employee on a form or other written directions acceptable to and filed with the Custodian, subject to the provisions of this section.

- (a) Events Permitting Withdrawal. No withdrawal of amounts consisting of salary reduction contributions under Section 3.2 may be made from the Account before the earliest of
- (i) the date the employee reaches age 59½ ;
 - (ii) the date the Employee terminates service with the Employer for any reason, including retirement;
 - (iii) the date the Employee becomes disabled; as used in this subsection (iii), "disabled" means unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long continued and indefinite duration; the Custodian may require the Employee to furnish a certificate of a licensed physician stating that the Employee is so disabled or may require the Employee to provide satisfactory evidence that the Employee has been awarded Social Security disability benefits before processing any withdrawals on account of the Employee's disability; or
 - (iv) the date the Employee encounters financial hardship within the meaning of Code Section 403(b)(7)(A)(ii) and applicable Treasury regulations; before processing a hardship withdrawal, the Custodian may require the Employee to provide adequate verification of the existence of such a financial hardship (which may include furnishing a certificate of an independent person appointed by the Employer, stating that the Employee has a financial hardship and the amount needed to meet the financial hardship, or such other evidence or certification of the Employee's financial

hardship and the amount needed to meet the financial hardship as the Custodian determines).

Notwithstanding the preceding paragraph, if so provided in the Adoption Agreement (or in procedures adopted by the Custodian), the Employee may apply for a hardship withdrawal by telephonic or other electronic means. If so, the Employee will be deemed to have certified that the withdrawal is needed to meet one of the following situations:

(A) Expenses for medical care described in Code Section 213(d) previously incurred by the Employee, the Employee's spouse, or any dependents of the Employee or necessary for these persons to obtain such medical care;

(B) Costs directly related to the purchase of a principal residence for the Employee (excluding mortgage payments);

(C) Payment of tuition, related educational fees, and room and board expenses, for the next 12 months of post-secondary education for the Employee, or the Employee's spouse, children, or dependents; or

(D) Payments necessary to prevent the eviction of the Employee from the Employee's principal residence or foreclosure on the mortgage on that residence.

In addition, the Employee will be deemed to have certified and agreed that:

(E) The withdrawal is not in excess of the amount of the immediate and heavy financial need of the Employee. (The amount of an immediate and heavy financial need may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the withdrawal.)

(F) The Employee may not make any salary reduction contributions to the Account (or to any other plan maintained by the Employee's employer for a period of 6 months after receiving the hardship withdrawal. When the Employee resumes salary reduction contributions to the Account, the limit on salary reduction contributions under Code Section 402(g) will be reduced to the extent required by and in a manner consistent with any applicable regulations or rulings of the Internal Revenue Service on suspension of

contributions following a hardship withdrawal.

A financial hardship withdrawal under this subsection (iv) may not include any earnings or investment gains on the salary reduction contribution amounts while held in the Account.

(b) **Withdrawals from Other Contributions.**

Withdrawals of amounts consisting of rollovers or transfers (and any earnings or investment growth) may be made from the Account at the Employee's election (subject to the minimum distribution or other applicable requirements of this Agreement).

(c) **Withdrawal of Excess Contributions or Deferrals.**

If for any taxable year, any portion of the contributions to the Employee's Account is an excess contribution under Code Section 4973, the Employee may instruct the Custodian to pay such amount (plus earnings) to the Employee and the Custodian will process such withdrawal (subject to the requirements of subsection (a) above). Alternatively, the Employee may designate such amount as a contribution for a subsequent taxable year by appropriate written instructions to the Custodian.

If, on or before March 1 following the close of a calendar year, the Employee notifies the Custodian in writing that an amount in the Account constitutes a deferral (including salary reduction contributions) in excess of the applicable limit in Code Section 402(g) and requests to withdraw such amount (plus earnings), the Custodian will process such withdrawal and pay such amount (and any earnings allocable to such amount) to the Employee (or to his or her order) on or before the next following April 15.

- (d) **Required Start of Withdrawals.** An Employee must begin taking withdrawals from the Account no later than the April 1 of the year following the year in which the Employee reaches age 70, or the April 1 following the Employee's retirement or termination of employment from the Employer, if later (the "required beginning date").

5.3 Form of Distribution. The Employee may elect to receive the assets of his Account, in cash or in shares, in either or any combination of the following forms, as directed by the Employee:

- (a) a single sum;
- (b) in withdrawals at such times and in such amounts as the Employee specifies, which can include specification of a regular program of monthly,

quarterly or annual installment payments, provided that the amount withdrawn in any distribution calendar year satisfies the requirements of Code Section 401(a)(9) and the regulations thereunder (proposed, temporary or final as the case may be) as applicable to custodial accounts operating under Code Section 403(b)(7) (for this purpose, a "distribution calendar year" is any calendar year with respect to which a distribution from the Account is required to satisfy Code Section 401(a)(9) and the regulations thereunder). The first distribution calendar year is the calendar year in which the Employee reaches age 70½ or the year of the Employee's retirement or termination of employment from the Employer, which ever is later. Each subsequent calendar year during the Employee's lifetime is also a distribution calendar year. The required minimum distribution for the Employee's first distribution calendar year must be withdrawn by the Employee by no later than the Employee's required beginning date. The required minimum distribution for each subsequent distribution calendar year must be withdrawn by the Employee before the end of such distribution calendar year. In general, the required minimum distribution for any distribution calendar year is the balance in the Employee's Account as of the end of the calendar year preceding such distribution calendar year divided by the appropriate divisor based upon the Employee's age in such distribution calendar year in accordance with regulations under Code Section 401(a)(9); however, if the Employee's sole designated beneficiary is the Employee's spouse, and the spouse is more than 10 years younger than the Employee, the divisor is the joint life expectancy of the Employee and his spouse determined under applicable regulations for such distribution calendar year.

The requirements of the preceding paragraph are effective as of January 1, 2002.

If the Employee fails to elect the time or form of distribution of benefits, the Custodian will assume that the Employee is satisfying any minimum distribution requirements from another 403(b) arrangement. The Custodian will not distribute any assets from the Employee's Account in the absence of a written withdrawal direction in good order from the Employee (or, if applicable the Employee's beneficiary), and the Custodian will have no liability or responsibility for not making a distribution in such event.

5.4 Distributions at the Employee's Death.

- (a) **In General.** At the Employee's death, distributions will be made in the form elected by the Beneficiary. The Beneficiary must notify the

Custodian in writing of the Employee's death and provide such evidence of the Employee's death as the Custodian requests. The Custodian will not distribute any assets from the Account following the Employee's death until the foregoing requirements have been satisfied, and the Custodian will have no liability for any resulting delays in distribution. To the extent the Beneficiary may elect the form of distribution, the Beneficiary must provide written notice to the Custodian listing the date on which distribution will commence, and the manner in which and the period over which distribution will be made, subject to the other provisions of this Section 5.5. The Custodian will have no liability or responsibility for following the written directions of the Beneficiary (or the Employee) or for not acting in the absence of such written directions.

(b) **Form of Distribution: Death of Employee Before Required Beginning Date.** If the Employee dies before his required beginning date (see Section 5.2(d)), any form of distribution to the Beneficiary must comply with the following requirements:

(i) **Non-Spousal Beneficiary.** If the Beneficiary to receive the Employee's Account following the Employee's death is not the Employee's surviving spouse, the rules in this subsection apply. The Beneficiary must withdraw the entire amount in the Employee's Account by the end of the fifth calendar year following the calendar year of the Employee's death. Alternatively, the Beneficiary may withdraw the amount in the Account in a single sum, or in regular or irregular installment withdrawals at such times and in such amounts as the Beneficiary specifies, which can include specification of a regular program of monthly, quarterly or annual installment payments, provided that the amount withdrawn in any Beneficiary distribution calendar year satisfies the applicable requirements of Code Section 401(a)(9) and the regulations thereunder (proposed, temporary or final as the case may be) as applicable to custodial accounts operating under Code Section 403(b)(7). The first distribution calendar year to the Beneficiary is the calendar year following the year in which the Employee died. Each subsequent calendar year during the Beneficiary's life expectancy period (see below) is also a Beneficiary distribution calendar year. The required minimum distribution for any Beneficiary distribution calendar year must be withdrawn no later than the end of such

year. In general, the required minimum distribution for any distribution calendar year to the Beneficiary is the balance in the Account as of the end of the preceding calendar year divided by the life expectancy of the Beneficiary determined based upon the Beneficiary's age at his or her birthday during the first distribution calendar year to the Beneficiary and reduced by one for each subsequent distribution calendar year to the Beneficiary. The life expectancy will be determined in accordance with the regulations under Code Section 401(a)(9). If the Beneficiary dies before distribution of the entire Account, an eligible inheriting beneficiary of that Beneficiary may continue to take required minimum distributions over the remaining unused life expectancy period of the Beneficiary.

(ii) **Spousal Beneficiary.** If the Employee's sole Beneficiary is the Employee's surviving spouse, withdrawals must be made in accordance with subsection (b)(i) above, except that withdrawals are not required to be made by the Beneficiary until the end of the calendar year following the year of the Employee's death or the end of the calendar year in which the Employee would have attained age 70 ½ (had the Employee survived), whichever is later. In addition, the amount to be distributed for any distribution calendar year of the Beneficiary is the balance in the Account as of the end of the preceding calendar year divided by the Beneficiary's life expectancy determined based upon the Beneficiary's age at his or her birthday during such distribution calendar year.

If the Beneficiary dies before the date that required minimum distributions to the Beneficiary must begin, the rules in subsection (i) above will be applied as if the Beneficiary were the Employee. If the Beneficiary dies after required minimum distributions to the Beneficiary have begun, then required minimum distributions must continue over a period equal to the remaining life expectancy of the Beneficiary determined as of his or her age on her birthday in the year of his or her death

(iii) **Determination of Beneficiary.** The person or persons who are considered the Employee's Beneficiary(ies) for purposes of applying the rules of this Section 5.4(b) will be determined as of September 30th of the year following the calendar year of the Employee's death. No person may be a designated Beneficiary unless he or she

was designated as such by the Employee during the Employee's lifetime; however, such a designated person will not be considered a Beneficiary for purposes of such rules if such person executed a valid disclaimer or received payment of his or her entire interest before the beneficiary determination date.

- (iv) **Special Rules.** If there is no surviving Beneficiary designated by the Employee as of the beneficiary determination date, the entire amount in the Employee's Account must be distributed before the end of the fifth calendar year following the year of the Employee's death.

If a Beneficiary designated by the Employee survived the Employee but is not living on the beneficiary determination date, an eligible inheriting beneficiary of that Beneficiary may take required minimum distributions over the remaining unused life expectancy period of the Beneficiary.

If any Beneficiary for the Account is not an individual, the amount in the Account must be distributed by the end of the fifth calendar year following the year of the Employee's death.

If there are multiple individual Beneficiaries, the rules of subsection (i) above will be applied based upon the life expectancy of the oldest Beneficiary. However, if there are multiple Beneficiaries and if, by the date for the determination of the Beneficiary(ies) (see subsection (iii) above), separate sub-accounts have been established within the Account for each Beneficiary in a manner that complies with the requirements of regulations under Code Section 401(a)(9), the rules of this subsection (b) will be applied separately with respect to each Beneficiary.

- (c) **Form of Distribution: Death of Employee After Required Beginning Date.** If the Employee dies after his required beginning date (see Section 5.2(d)), any form of distribution to the Beneficiary must comply with the following requirements:

- (i) The required minimum distribution for the distribution calendar year of the Employee's death will be determined in accordance with the rules of Section 5.3.

- (ii) **Non-Spousal Beneficiary.** If the Beneficiary to receive the Employee's Account following the Employee's death is not the Employee's surviving spouse, the rules in this subsection apply. The Beneficiary may withdraw the amount in the Account in a single sum, or in regular or irregular installment withdrawals at such times and in such amounts as the Beneficiary specifies, which can include specification of a regular program of monthly, quarterly or annual installment payments, provided that the amount withdrawn in any Beneficiary distribution calendar year satisfies the applicable requirements of Code Section 401(a)(9) and the regulations thereunder (proposed, temporary or final as the case may be) as applicable to custodial accounts operating under Code Section 403(b)(7). The first distribution calendar year to the Beneficiary is the calendar year following the year in which the Employee died. Each subsequent calendar year during the Beneficiary's expectancy period (see below) is also a Beneficiary distribution calendar year. The required minimum distribution for any Beneficiary distribution calendar year must be withdrawn no later than the end of such year. In general, the required minimum distribution for any distribution calendar year to the Beneficiary is the balance in the Account as of the end of the preceding calendar year divided by the life expectancy of the Beneficiary determined based upon the Beneficiary's age at his or her birthday during the calendar year following the year of the Employee's death and reduced by one for each subsequent distribution calendar year to the Beneficiary. The life expectancy will be determined in accordance with the regulations under Code Section 401(a)(9). If the Beneficiary dies before distribution of the entire Account, required minimum distributions must continue over the remaining life expectancy period of the Beneficiary.

- (iii) **Spousal Beneficiary.** If the employee's sole Beneficiary is the employee's surviving spouse, withdrawals will be made in accordance with subsection (c)(ii) above, except that the amount to be distributed for any distribution calendar year of the Beneficiary is the balance in the Account as of the end of the preceding calendar year divided by the Beneficiary's life expectancy determined based upon the Beneficiary's age at his or her birthday during such distribution calendar year.

If the Beneficiary dies before the distribution of the entire Account, then required minimum distributions must continue over a period equal to the remaining life expectancy of the Beneficiary determined as of his or her age on her birthday in the year of his or her death

- (iv) **Determination of Beneficiary.** The person or persons who are considered the Employee's Beneficiary(ies) for purposes of applying the rules of this Section 5.4(c) will be determined under the rules specified in Section 5.4(b)(iii) above.
- (v) **Special Rules.** If there is no surviving Beneficiary designated by the Employee as of the beneficiary determination date, or if any Beneficiary is not an individual, the amount remaining in the Employee's Account must be distributed over a period equal to the life expectancy of the Employee (determined as of the Employee's birthday in the year of his or her death), with the required minimum distribution determined by dividing the remaining Account balance by the life expectancy period as so determined, reduced by one for each subsequent distribution calendar year.

If there are multiple individual Beneficiaries, the rules of subsection (i) above will be applied based upon the life expectancy of the oldest Beneficiary. However, if there are multiple Beneficiaries and if, by the date for the determination of the Beneficiary(ies) (see subsection (iv) above), separate sub-accounts have been established within the Account for each Beneficiary in a manner that complies with the requirements of regulations under Code Section 401(a)(9), the rules of this subsection (b) will be applied separately with respect to each Beneficiary.

disability, the Custodian may, in its absolute discretion, pay all or any part of such amount to (a) a parent of such person, (b) the guardian, committee or other legal representative, wherever appointed, of such person, including a custodian for such person under a Uniform Transfers to Minors Act or similar act, (c) any person having the control and custody of such person, or (d) to such person directly.

5.6 Distributions Under Court Orders.

Notwithstanding any other provision hereof, the Custodian will make payments in accordance with any apparently valid order or judgment issued by a probate, domestic relations, bankruptcy or other court having authority over the Account. The Employee (or Beneficiary) will have the responsibility for directing the Custodian whether or not to contest, defend against or appeal the issuance of any such order or judgment, but the Custodian will have no responsibility to so contest, defend or appeal unless it has been indemnified by the Employee (or Beneficiary) to its satisfaction against its costs, expenses (including attorneys' fees) and other liabilities arising therefrom.

5.7 Withdrawals Payable in Cash or in Shares. All withdrawals will be paid in cash or in shares of one or more Funds, as designated in writing by the Employee or Beneficiary. When required to pay a withdrawal in cash, the Custodian will redeem sufficient shares of one or more Funds in the Employee's Account to provide the amount necessary; any such redemptions will be in accordance with the Employee's instructions (or, in the absence of such instruction, in proportion to the value of the shares of each Fund held in the Account, and the Custodian will be fully protected in so doing).

Payment in shares will be effected by reregistering the shares in the name of the payee.

5.8 Transfer of Account. At the written direction of the Employee, the Custodian will redeem a portion or all of the shares of one or more Funds in the Employee's Account and will transfer the redemption proceeds, less any charges, to the custodian or insurer of another custodial account or annuity contract established for the benefit of the Employee under Code Section 403(b) or to the trustee, custodian or issuer of an individual retirement account or annuity, or to the trustee of another employer plan qualified under Code Section 401(a) or a governmental plan meeting the requirements of Code Section 457, as specified by the Employee. Neither the Custodian nor any Fund hereunder (or any entity or person affiliated with the Custodian or a Fund) will have any responsibility to determine whether such other custodial account or annuity contract or individual retirement account or annuity or qualified trust or governmental plan meets the requirements of Code Section 403(b), 408, 401(a) or 457 (as the case may be) or whether the transfer or rollover will constitute a tax-free transaction.

5.9 Direct Rollovers.

- (a) Notwithstanding any provision of this Agreement to the contrary that would otherwise limit a

5.5 Incompetent Recipient. If an amount is payable to a person known by the Custodian to be a minor or under a legal

distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Custodian, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) For purposes of this section, the following terms have the definitions given.

(i) Eligible rollover distribution: An eligible rollover distribution is any withdrawal or distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any withdrawal or distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any withdrawal or distribution to the extent such distribution is required under Code Section 401(a)(9); the portion of any withdrawal or distribution that is not includible in gross income (except to the extent provided in the Code); and, any hardship withdrawal under Section 5.2(a)(iv).

(ii) Eligible retirement plan: An eligible retirement plan is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), or an arrangement

described in Code Section 403(b), that accepts the distributee's eligible rollover distribution. In addition, an eligible retirement plan includes an employer plan that is qualified under Code Section 401(a) with a trust that is tax-exempt under Code Section 501(a) or a plan maintained under Code Section 457 by a governmental employer. Any arrangement described in Code Section 403(b), 401(a) or 457 shall be an eligible retirement plan only if the distributee is a participant in such plan and such plan permits the acceptance of direct rollovers.

(iii) Distributee: A distributee includes the Employee. In addition, the Employee's surviving spouse and the employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p) (if applicable), are distributees with regard to the interest of the spouse or former spouse.

(iv) Direct rollover: A direct rollover is a payment from the Employee's Account to the eligible retirement plan specified by the distributee.

(c) Neither the Custodian nor any Fund hereunder (or any entity or person affiliated with the Custodian or a Fund) will have any responsibility to determine whether such eligible retirement plan meets the requirements of Code Section 401(a), 403(b), 408 or 457 whether the direct rollover will constitute a tax-free transaction.

ARTICLE 6: THE CUSTODIAN

6.1 Duties. The Custodian will perform the following duties related to the administration of the Employee's Account (subject to the provisions of this Agreement):

- (a) Receive contributions under Sections 3.2 and 3.3, invest such contributions in shares of one or more Funds in accordance with the Employee's investment instructions, and credit such shares to the Employee's Account;
- (b) Maintain accounting records showing the number of Fund shares credited to the Account;
- (c) Collect income and reinvest such income as provided in this Agreement;
- (d) Carry out the Employee's (or Beneficiary's) instructions for the purchase, sale or exchange of

shares of Funds for the Account and make settlements in accordance with general practice;

- (e) Maintain records of all transactions in the Account;
- (f) Not less frequently than annually, provide the Employee (or Beneficiary) appropriate statements of the Account showing all transactions of the Account;
- (g) File with the Internal Revenue Service and/or any other government agency such returns, reports, forms, and other information (if any) as may be required of it as Custodian;
- (h) Perform such other duties and services as may be necessary under this Agreement.

The Custodian may appoint one or more service providers or contractors (including an affiliate of the Custodian or a contractor or affiliate of a Fund or the transfer agent for a Fund) to carry out any or all of its duties hereunder.

6.2 Share Redemptions. If cash is needed to pay taxes, fees, or other expenses properly chargeable to the Account or to make payments to the Employee or Beneficiary under Article 5, the Employee (or Beneficiary, if applicable) will instruct the Custodian in writing which Fund should be redeemed or sold if the Account is invested in more than one Fund. In the absence of such written instructions, the Custodian will redeem shares of all Funds in the Account in proportion to the value of the shares of each such Fund held in the Account and will be fully protected in so doing.

6.3 Limitations on Liabilities and Duties.

- (a) The Custodian will be fully protected in acting in accordance with or in reliance upon any document, order or other direction believed by the Custodian to be genuine and properly given, or in not acting in the absence of proper instructions or when it believes that any document, order or other direction either is not genuine or was not properly given, or is otherwise not in good order.
- (b) To the extent permitted by law, 30 days after providing to the Employee (or Beneficiary) any statement referred to in Section 6.1, the Custodian will be released and discharged from all liability to the Employee (or Beneficiary) and any other person as to the matters contained in such statement unless the Employee (or Beneficiary) files written objections with the Custodian within such 30-day period.
- (c) The Employee (or Beneficiary) will be solely responsible for his investment directions and the selection of the Fund(s) in which the Account is invested. Neither the Custodian nor any Fund (nor any entity or person affiliated with the Custodian or a Fund) will be under any fiduciary or other duty to the Employee (or Beneficiary) with respect to the selection of investments or be liable for any loss or diminution in value incurred on account of a selected investment. The Employee acknowledges that the Custodian will not provide investment advice or recommendations hereunder.
- (d) Neither the Custodian nor any Fund (nor any entity or person affiliated with the Custodian or a Fund) will have any responsibility for determining the amount of any contribution or for collecting any contribution from any person. Neither of them (nor any such other person) will have any responsibility for determining whether

the amount of any contribution is within any applicable limitation under the Code, or for any taxes or penalties imposed on excess contributions or deferrals. The Employee will have sole responsibility for the computation of the limitation(s) on contributions under Code Section 415(c), any limit on elective deferrals (including salary reduction contributions) under Code Section 402(g) or 414(v), and any and all matters relating to any tax consequences with respect to contributions, earnings, withdrawals, transfers or rollovers to or from the Account.

- (e) Neither the Custodian nor any Fund (nor any entity or person affiliated with the Custodian or a Fund) will be responsible for determining the propriety, amount or timing of any loan to or withdrawal by the Employee (or Beneficiary), or for any taxes or penalties imposed because of taxable loans or improper, premature or insufficient withdrawals.
- (f) The Custodian shall have no responsibility to carry out any transaction with respect to the Account except upon the written order of the Employee (or Beneficiary if the Employee is deceased), and shall be entitled to receive any and all applications, certificates, tax waivers, signature guarantees, releases, indemnification agreements, and other documents (including proof of any legal representative's authority) deemed necessary or advisable by the Custodian, but the Custodian will not be responsible for complying with any order or instruction which appears on its face to be genuine (and the Custodian will have no duty of further inquiry with respect to any such order or instruction). The Custodian will not be required to carry out any incomplete or ambiguous instructions or any instructions otherwise not given in accordance with this Agreement or not in good order. Neither the Custodian nor any Fund (nor any entity or person affiliated with the Custodian or a Fund) will be liable for loss of income, or for appreciation or depreciation in share value resulting from the Custodian's failure to follow any incomplete or ambiguous instructions or any instructions otherwise not given in accordance with this Agreement or not in good order, or for any delay pending the receipt of any additional document or information requested by the Custodian.
- (g) The Custodian will have no responsibility to pay any withdrawal directed by the Employee or Beneficiary unless the Employee's or Beneficiary's written withdrawal instructions state the reason for the withdrawal and contain all signature guarantees and other documents requested by the Custodian.

- (h) Neither the Custodian nor any Fund (nor any entity or person affiliated with the Custodian or a Fund) will have any liability to the Employee or Beneficiary for any tax penalty or other damages resulting from any inadvertent failure by the Custodian to pay a withdrawal when requested.
- (i) Neither the Custodian nor any Fund (nor any entity or person affiliated with the Custodian or any Fund) will have any liability to the Employee or any Beneficiary as a result of transferring the amount in the Account to the proper state authority in accordance with any applicable law relating to escheat or abandoned or unclaimed property.
- (j) To the extent permitted by law, the Employee (or where applicable Beneficiary) agrees to indemnify the Custodian and hold it harmless from any and all liability whatsoever which may arise either (i) in connection with this Agreement and the Employee's Account (except liability arising from the Custodian's fraud or willful misconduct) or (ii) with respect to making or failing to pay any withdrawal, other than for failure to make any distribution in accordance with instructions therefor which are in full compliance with this Agreement.
- (k) The Custodian will not be obligated to commence or to defend a legal action or proceeding in connection with this Agreement unless the Custodian agrees to do so and is first indemnified to its satisfaction.
- (l) Neither the Employer nor any Fund (nor any entity or person affiliated with a Fund) will have any responsibility or liability for any acts or omissions of the Custodian hereunder. The Custodian (and any affiliate of the Custodian) will have no responsibility or liability for any acts or omissions of the Employee, the Employer or any Fund (or any affiliate or representative of any of them).
- (m) The limitations on the liabilities and duties of the Custodian, and the protections accorded the Custodian, in this Section 6.3 are not exclusive, but rather are in addition to any other limitations on the Custodian's liabilities and duties and any other protections accorded the Custodian under this Agreement.

6.4 Compensation. The Custodian will receive the fees specified in its then current fee schedule. The Custodian may substitute a revised fee schedule from time to time upon 30 days' written notice to the Employee. The Custodian will be entitled to such reasonable additional fees as it may from time to time determine for services required of it in addition to those reflected in the fee schedule.

6.5 Resignation. The Custodian may resign by giving at least 30 days' written notice to the Employee (or Beneficiary) at the Employee's (or Beneficiary's) last known address as shown on the Custodian's records. In such event, the Distributor of the Funds will designate a successor 403(b) custodian or individual retirement account to which the assets of the Account are to be transferred. If the Distributor does not timely designate a successor custodian or individual retirement account, the incumbent Custodian may designate a successor by giving at least 30 days' written notice of such successor to the Employee (or Beneficiary), and the Employee (or Beneficiary) will be deemed to have consented to such appointment unless, within such period, the Employee (or Beneficiary) directs the Custodian to transfer the Employee's Account to a different custodian in accordance with Section 5.8 hereof.

On the effective date of its resignation, the incumbent Custodian will transfer to the successor custodian the assets and records (or copies thereof) of the Account; provided, however, that the Custodian may retain whatever assets it deems necessary for payment of its fees, costs, expenses, compensation, and any other liabilities which constitute a charge on or against the assets of the Account or on or against the Custodian.

ARTICLE 7: FEES, TAXES, AND OTHER EXPENSES

Any income or other taxes that may be levied or assessed upon the Account (including any transfer taxes incurred in connection with the investment and reinvestment of Account assets), expenses, fees and administrative costs incurred by the Custodian in the performance of its duties (including fees for legal services rendered to the Custodian), and the Custodian's compensation under Section 6.4, will constitute a charge upon the assets of the Account.

If not paid by the Employee within 30 days after being billed therefor by the Custodian, the Custodian will withdraw such fee, tax or expense from the Account and may redeem sufficient shares of any Fund held in the Account to effect such payment without liability for any loss incurred thereby.

ARTICLE 8: PROTECTION OF ACCOUNT

No part of the Account will be used for purposes other than for the exclusive benefit of the Employee (and the

payment of fees, expenses and charges as provided herein). To the extent permitted by law, no right or benefit under this

Agreement will be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt at such will be void. To the extent permitted by law, no right or benefit hereunder will be subject to the debts, contracts, liabilities, engagements or torts of the

person who is entitled to such right or benefit, or be subject to attachment or legal process for or against such person. However, the Custodian will carry out the requirements of any apparently valid court order relating to the Account.

ARTICLE 9: BENEFICIARY DESIGNATION

The Employee may submit to the Custodian a signed written designation of beneficiary acceptable to the Custodian. Any such designation of beneficiary will be effective when filed with the Custodian during the Employee's lifetime. Whether or not fully dispositive of the Account, the most recently filed designation of beneficiary accepted by the Custodian will revoke all previously filed designations. If, in the opinion of the Custodian, any designation of beneficiary is unclear or incomplete, in addition to any documents or assurances the Custodian may request under Section 6.3, the Custodian shall be entitled to request and receive such clarification or additional instructions as the Custodian in its discretion deems necessary to determine the correct Beneficiary(ies) following the Employee's death. (*Note:* A married Employee who resides in a community property or marital property state (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington or Wisconsin), may

need to obtain spousal consent if he or she has not designated the spouse as the primary Beneficiary for at least half of the Account. Consult a lawyer or other tax professional for additional information and advice.)

Any amount payable as a result of the Employee's death that is not disposed of by a designation of beneficiary, for any reason whatsoever, will be paid to the Employee's estate. If a Beneficiary dies while receiving distributions, the portion of the Account to which the Beneficiary would have been entitled (had he or she survived) shall be paid to the Beneficiary's beneficiary or beneficiaries (or to the Beneficiary's estate) provided the Custodian receives notification and evidence acceptable to it of the Beneficiary's death.

ARTICLE 10: AMENDMENT

10.1 Amendment. The Custodian may amend this Agreement in its entirety or any portion thereof, and the Employee consents to each such amendment. The Custodian will provide copies of such amendment to the Employee. Nothing in this Agreement will impose on the Custodian an affirmative obligation to amend the Agreement.

expenses as provided for herein), or cause or permit any portion of such assets to revert to or become the property of the Employer, or

(b) which would retroactively deprive any Employee of any benefit to which he or she was entitled under the Agreement,

10.2 Limitations. No amendment will be made:

- (a) which would cause or permit any part of the Account to be diverted to purposes other than for the exclusive benefit of the Employee (or Beneficiary) (including the payment of fees and

unless such amendment is necessary, in the opinion of counsel to the Custodian, to conform the Agreement to, or satisfy the conditions of, Code Section 403(b) or any other applicable law.

ARTICLE 11: TERMINATION

11.1 Automatic Termination on Distribution. This Agreement will terminate when all the assets held in the Account have been distributed or otherwise transferred out of the Account.

such termination of this Agreement, the Custodian will distribute all assets in the Account to the Employee or, in the event of the Employee's death, to the Beneficiary, subject to the Custodian's right to reserve funds as provided in Section 6.5.

11.2 Termination on Disqualification. This Agreement will terminate if, after notification by the Internal Revenue Service that the Employee's Account does not qualify under Code Section 403(b)(7), the Custodian does not make such amendments as are necessary to so qualify the Account. On

11.3 Survival. The provisions for the protection of the Custodian, including specifically but without implied limitation Section 6.3(j) and (k), will survive the termination of this Agreement.

ARTICLE 12: MISCELLANEOUS

12.1 Not an Employee Benefit Plan. The Employer must permit employees to establish 403(b) accounts in

accordance with Department of Labor Regulations Section 2510.3-2(f) so that the Account will not be deemed to be an

employee pension benefit plan for purposes of the Employee Retirement Income Security Act of 1974, as amended. The Employer will be responsible for compliance with the requirements of Code Section 403(b)(12)(i), and the Custodian will have no responsibility for insuring that the Employer so complies.

12.2 Applicable Law. This Agreement will be construed, administered and enforced in accordance with the laws of the Commonwealth of Massachusetts, the state where the principal offices of the Custodian are located, and any action involving the Custodian brought by any other party must be brought in a state or federal court in such Commonwealth.

12.3 Change of Address. The Employer or the Employee will notify the Custodian in writing of any change of address within 30 days of such change.

12.4 Notices.

- (a) Any notice or payment from the Custodian to the Employer or the Employee under this Agreement will be effective when sent by U.S. mail to the address of the Employer or Employee as then shown on the Custodian's records. Any notice to the Custodian under this Agreement will be by first class mail addressed to its principal office or such other address as the Custodian specifies.

- (b) If any provision of this Agreement calls for written notice to the Custodian, such notice may if permitted by the Custodian be given by telephonic, automatic voice response system or other electronic means. The Employee acknowledges and agrees that any telephone calls to the Custodian may be recorded.

12.5 Successors. This Agreement will be binding upon and inure to the benefit of the successors in interest of the parties hereto.

12.6 Separability. If any provision of this Agreement is held invalid or illegal for any reason, such determination will not affect any remaining provisions of this Agreement, but this Agreement will be construed and enforced as if such invalid or illegal provision has never been included in this Agreement.

12.7 Code Section 403(b), etc. As provided in Section 1.1 above, this Agreement and the Adoption Agreement are intended to meet the requirements of Code Section 403(b) and all other applicable legal requirements. If Code Section 403(b) or applicable regulations or other legal rules are amended or changed, it is anticipated that this Agreement will be correspondingly amended effective as of the effective date of such amendment or change. Pending the adoption of an amendment to this Agreement, the Account may be operated in accordance with the amended or changed requirements of Code Section 403(b) or applicable regulations or other legal rules so as to preserve the intended tax and other benefits of the Account.

12.8 Code Section 403(b), etc. As provided in Section 1.1 above, this Agreement and the Adoption Agreement are intended to meet the requirements of Code Section 403(b) and all other applicable legal requirements. If Code Section 403(b) or applicable regulations or other legal rules are amended or changed, it is anticipated that this Agreement will be correspondingly amended effective as of the effective date of such amendment or change. Pending the adoption of an amendment to this Agreement, the Account may be operated in accordance with the amended or changed requirements of Code Section 403(b) or applicable regulations or other legal rules so as to preserve the intended tax and other benefits of the Account.

12.9 Reference to Employee. Following the death of the Employee, the rights and responsibilities of the Employee under this Agreement will be carried out by the Beneficiary (or if none, or no Beneficiary survives the Employee, the executor or administrator of the Employee's estate), and any reference herein to the Employee will be deemed to be a reference to the Beneficiary (or the executor or the administrator of the Employee's estate).

(9/02)